

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TERRANCE SYKES, JR.,

Plaintiff,

v.

M. RIOS, et al.,

Defendants.

No. 1:24-cv-01401-KES-HBK (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION WITHOUT PREJUDICE FOR
FAILURE TO PAY THE FILING FEE,
FAILURE TO PROSECUTE, AND FAILURE
TO COMPLY WITH A COURT ORDER

Doc. 10

Plaintiff Terrance Sykes, Jr., a federal prisoner proceeding pro se, filed this civil rights action pursuant to *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971), along with a “motion in equity” to ignore the filing fee.¹ Docs. 1, 4. The matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Upon the docketing of the complaint, on November 15, 2024, the assigned magistrate judge issued an order directing plaintiff to either submit an application to proceed in forma

¹ The mailbox rule provides that a pro se inmate’s pleading shall be deemed filed the date he signed and delivered it to prison authorities for forwarding to the court clerk rather than the day it was received and docketed by the Court. *See Roberts v. Marshall*, 627 F.3d 768, 770 n.1 (9th Cir. 2010); *see also Leveron v. Jenkins*, Case No. 2:23-cv-4914-RGK (MAR), 2023 WL 8938402, at *1 (C.D. Cal. Aug. 28, 2023) (applying mailbox rule to *Bivens* case). Here, plaintiff signed his complaint and motion on October 30, 2024, and those documents were received and docketed by the Court on November 15, 2024. *See* Docs. 1, 4.

1 pauperis or pay the \$405.00 filing fee within thirty days. Doc. 3. The order warned plaintiff that
2 failure to comply with the order would result in a recommendation that the case be dismissed. *Id.*
3 On December 4, 2024, the magistrate judge denied plaintiff's motion to ignore the filing fee and
4 ordered plaintiff to either pay the filing fee or file an application to proceed in forma pauperis no
5 later than December 20, 2024. Doc. 5. The order warned plaintiff again that failure to do so
6 would result in a recommendation that the action be dismissed. *Id.* Plaintiff did not file an
7 application to proceed in forma pauperis or pay the filing fee. *See* Docket.

8 Accordingly, on January 6, 2025, the magistrate judge issued findings and
9 recommendations recommending dismissal of the case without prejudice for plaintiff's failure to
10 pay the filing fee, failure to prosecute this action, and failure to comply with a court order. Doc.
11 10. The findings and recommendations were served on plaintiff and contained notice that any
12 objections thereto were due within fourteen days. *Id.* at 5–6. Plaintiff did not file objections, and
13 the time to do so has expired. Nor has plaintiff since submitted an application to proceed in
14 forma pauperis, paid the filing fee, or otherwise communicated with the Court. *See* Docket.

15 In accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court has conducted a de
16 novo review of this case. Having carefully reviewed the file, the Court concludes that the
17 findings and recommendations are supported by the record and by proper analysis.

18 Accordingly,

- 19 1. The findings and recommendations issued January 6, 2025, Doc. 10, are adopted in
20 full;
- 21 2. The action is dismissed without prejudice for plaintiff's failure to pay the filing fee,
22 failure to prosecute, and failure to obey a court order; and
- 23 3. The Clerk of Court shall close this case.

24
25
26 IT IS SO ORDERED.

27 Dated: June 17, 2025

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UNITED STATES DISTRICT JUDGE